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9 Attorneys for Nominal Defendant
10 EXTREME NETWORKS, INC.

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11 UNITED STATES DISTRICT COURT

12 NORTHERN DISTRICT OF CALIFORNIA – SAN JOSE DIVISION

13
14 YENNA WU, Derivatively on Behalf of
Nominal Defendant EXTREME
15 NETWORKS, INC.,

16 Plaintiff,

17 vs.

18 GORDON L. STITT, et al.,

19 Defendants,

20 and

21 EXTREME NETWORKS, INC.,

22 Nominal Defendant.

23 Case No. C-07-02268-RMW

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**STIPULATION AND []
ORDER CONSOLIDATING CASES FOR
ALL PURPOSES AND ESTABLISHING
PLEADING AND BRIEFING SCHEDULE**

1 **TO BE CONSOLIDATED WITH:**

2 LINDA ERIKSON, Derivatively on Behalf
3 of Nominal Defendant EXTREME
4 NETWORKS, INC.,

5 Plaintiff,

6 vs.

7 GORDON L. STITT, et al.,

8 Defendants,

9 and

10 EXTREME NETWORKS, INC.,

11 Nominal Defendant.

Case No. C-07-02388-RMW

12 FRANK A. GRUCEL, JR., Derivatively on
13 Behalf of Nominal Defendant EXTREME
14 NETWORKS, INC.,

15 Plaintiff,

16 vs.

17 GORDON L. STITT, et al.,

18 Defendants,

19 and

20 EXTREME NETWORKS, INC.,

21 Nominal Defendant.

Case No. C-07-02848-RMW

22 **TO THE HONORABLE COURT:**

23 Plaintiffs and Defendants hereby stipulate and agree, by and through their undersigned
24 counsel of record, as follows:

25 WHEREAS, there are three derivative actions pending in the Northern District of
26 California against nominal defendant Extreme Networks, Inc., as well as some or all of the
27 individual defendants named in this action, captioned as follows:
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	<u>Case Name</u>	<u>Case No.</u>	<u>Filing Date</u>
2	<i>Wu v. Stitt, et al.</i>	C-07-02268-RMW	April 25, 2007 ¹
3	<i>Erikson v. Stitt, et al.</i>	C-07-02388-RMW	May 2, 2007
4	<i>Grucel v. Stitt, et al.</i>	C-07-02848-RMW	May 31, 2007

5 WHEREAS, on June 18, 2007, each of the above-listed actions was ordered related and
 6 assigned to the Honorable Ronald M. Whyte;

7 WHEREAS, the above-listed actions arise out of the same transactions and occurrences
 8 and involve the same or substantially similar issues of law and fact, and therefore, meet the
 9 criteria for consolidation for all purposes pursuant to Federal Rule of Civil Procedure 42(a);

10 WHEREAS, on May 22, 2007, counsel for the parties to the *Wu* and *Erikson* actions filed
 11 a stipulation to consolidate the *Wu* and *Erikson* actions, upon which the Court deferred action on
 12 June 1, 2007;

13 WHEREAS, on June 8, 2007, counsel for plaintiff Grucel filed a motion to consolidate all
 14 three of the above-listed actions and to appoint Grucel as lead plaintiff and his counsel as lead
 15 counsel in the consolidated action, the hearing for which has been set for July 27, 2007 at 9:00
 16 a.m.;

17 WHEREAS, on July 6, 2007, nominal defendant Extreme Networks, Inc. filed a Statement
 18 of Non-Opposition to plaintiff Grucel's June 8, 2007 motion to consolidate all three of the above-
 19 listed actions and to appoint Grucel as lead plaintiff and his counsel as lead counsel in the
 20 consolidated action, stating its agreement that the above-listed actions should be consolidated and
 21 taking no position regarding the appointment of lead plaintiff and lead counsel; and,

22 WHEREAS, all plaintiffs and all defendants who have been served and/or appeared in the
 23 above-listed actions, by and through undersigned counsel ("Defendants") agree to consolidation
 24 of the above-listed cases for all purposes;

25 NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED, by and between
 26 the undersigned counsel for all parties, as follows:

27
 28 ¹ Plaintiff Wu filed an amended complaint on June 15, 2007.

1. The following actions are consolidated for all purposes, including pretrial proceedings, trial, and appeal:

<u>Case Name</u>	<u>Case No.</u>	<u>Filing Date</u>
<i>Wu v. Stitt, et al.</i>	C-07-02268-RMW	April 25, 2007
<i>Erikson v. Stitt, et al.</i>	C-07-02388-RMW	May 2, 2007
<i>Grucel v. Stitt, et al.</i>	C-07-02848-RMW	May 31, 2007

2. The caption of these consolidated actions shall be "*In re Extreme Networks, Inc. Shareholder Derivative Litigation*" and the files of these consolidated actions shall be maintained in one file under Master File No. C-07-2268-RMW. Any other actions now pending or later filed in this Court which arise out of or are related to the same facts alleged in the above-listed actions shall be consolidated for all purposes, if and when they are brought to the Court's attention.

3. All pleadings filed in the consolidated actions, or in any separate action included herein, shall bear the following caption:

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

In re EXTREME NETWORKS, INC.
SHAREHOLDER DERIVATIVE
LITIGATION

Case No. C-07-02268-RMW

This Document Relates To:

4. When a pleading is intended to be applicable to all actions governed by this Order, the words "All Actions" shall appear after the words "This Document Relates To:" in the above-caption. When a pleading is to be applicable to only some, but not all, of the consolidated actions, this Court's docket number for each individual action to which the pleading is intended to be applicable and the abbreviated case name of said action shall appear after the words "This

1 Document Relates To:" in the above-caption.

2 5. A Master Docket and a Master File are established for the above-listed
3 consolidated actions and for all other related actions filed or transferred to this Court. Separate
4 dockets shall continue to be maintained for each of the individual actions hereby consolidated,
5 and entries shall be made in the docket of each individual case in accordance with the regular
6 procedures of the clerk of this Court, except as modified by this Order.

7 6. When a pleading is filed and the caption shows that it is applicable to "All
8 Actions," the clerk shall file such a pleading in the Master File and note such filing in the Master
9 Docket. No further copies need be filed, and no other docket entries need be made.

10 7. When a pleading is filed and the caption shows that it is to be applicable to fewer
11 than all of the consolidated actions, the clerk will file such pleading in the Master File only, but
12 shall docket such filing on the Master Docket and the docket of each applicable action.

13 8. If and when a case which properly belongs as part of *In re Extreme Networks, Inc.*
14 *Shareholder Derivative Litigation* is filed in or transferred to this Court, the clerk of this Court
15 shall:

16 (a) Place a copy of this Order in the separate file for such action;

17 (b) Make to the attorneys for the plaintiff(s) in the newly-filed or transferred
18 case a copy of this Order and direct that this Order be served upon or mailed to any new
19 defendant(s) or their counsel in the newly-filed or transferred case; and,

20 (c) Make an appropriate entry on the Master Docket. This Court requests the
21 assistance of counsel in calling to the attention of the clerk of this Court the filing or transfer or
22 any case which properly might be consolidated as part of *In re Extreme Networks, Inc.*

23 *Shareholder Derivative Litigation.*

24 9. This Stipulation and Order shall have no effect on the appointment of lead plaintiff
25 and lead plaintiff's counsel in the consolidated action, which will be determined separately.

26 10. Plaintiffs shall have forty-five (45) days from the entry of the Court's Order
27 appointing lead plaintiff(s) and lead counsel in the consolidated action to file a Consolidated

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1 Complaint, which will supersede all existing complaints filed in these actions. Defendants need
2 not respond to any of the complaints currently on file. Service, pursuant to Rule 4 of the Federal
3 Rules of Civil Procedure, of any of the pre-existing complaints on any of the defendants, or their
4 counsel, shall constitute sufficient service on that defendant. Plaintiffs shall serve the
5 Consolidated Complaint on counsel for Defendants, who shall return waivers of service on behalf
6 of each individual defendant.

7 10. Each defendant shall answer or otherwise respond to the Consolidated Complaint
8 no later than forty-five (45) days after the date of filing. In the event that defendants file and
9 serve any motion directed at the Consolidated Complaint, plaintiffs shall file and serve their
10 opposition no later than forty-five (45) days after service of defendants' motion. If defendants
11 file and serve a reply to plaintiffs' opposition, they will do so no later than twenty (20) days after
12 service of the opposition.

13 **IT IS SO STIPULATED.**

14 Dated: July 10, 2007

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1 Dated: July 10, 2007

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Attorneys for Plaintiffs
Yenna Wu and Linda Erikson

1 Dated: July 10, 2007

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**Attorneys for Plaintiff
Frank A. Grucel, Jr.**

I, Joseph E. Floren, am the ECF User whose ID and password are being used to file this STIPULATION AND [PROPOSED] ORDER. I hereby attest that each of the two signatories identified above has concurred in this filing.

ORDER

**PURSUANT TO STIPULATION, AND GOOD CAUSE APPEARING, IT IS SO
ORDERED.**

DATED: 8/2, 2007

Ronald M. Whyte
Hon. Ronald M. Whyte
United States District Judge

Hon. Ronald M. Whyte
United States District Judge

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